

STATEMENT OF REASONS (FROM TRANSCRIPT)

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THE COURT: Mr. DiMento was correct that Dr. Schussel presents for me a defendant who is different from the defendant I ordinarily see in this courtroom. The last person I sentenced was I think a sentence I imposed on Tuesday of this year, a man named Gabriel Ortiz. Mr. Ortiz came before me having distributed ten grams of crack cocaine. He had two previous convictions for -- one at age 17 he sold a bag or distributed some marijuana, and one when he was 18, he sold some heroin.

Mr. Ortiz came to this courtroom looking at a minimum of 22 years in prison for selling ten grams of crack cocaine. And but for his lawyer, he was alone.

There is a difference in the persons, in the crime, and also in the nature of the punishment. Mr. Ortiz had no one to speak for him but his lawyer and himself.

I think it's a wonderful thing, a wonderful thing to have 59 people write to me about Dr. Schussel, and that's extraordinary. They tell me of his good works, and I don't -- I admire the good works. But when I sentence, I have to think of why I don't have anything like that from Mr. Ortiz. He had nothing to give. He ran away from home from an abusive, drug addicted mother at age 13, he lived on the streets, and was taken in by a friend, who was a drug dealer. Mr. Ortiz became

1     addicted to drugs himself, and he made his money by selling  
2     drugs on the street.

3             I didn't give him 22 years. The ultimate  
4     punishment was eight years.

5             But I raise his case to raise the question with all  
6     of you here: Should Gabriel Ortiz go to a federal penitentiary  
7     for 22 years or eight years and Dr. Schussel not go or should  
8     go for just a year because Mr. Ortiz sold some drugs,  
9     Dr. Schussel evaded his taxes?

10            There's a difference, to be sure, in the crime and  
11     the effect on society of the crimes. It's just the government  
12     who was the victim of this crime, who was the victim of the  
13     crime, and it was the larger society that was the victim of  
14     Mr. Ortiz' crime. Perhaps one could argue that by taking money  
15     from the government by tax evasion Dr. Schussel took \$8 million  
16     that might have gone to public housing, that might have gone to  
17     safer streets to protect us from people like Gabriel Ortiz.

18            But in today's world I have to look, I'm afraid, at  
19     both these men, men who have been convicted of felonies in this  
20     courtroom. The nature of the crime has an influence on me, to  
21     be sure. But I start out with the fact that both persons are  
22     convicted of felonies, of offenses against the United States of  
23     America.

24            There's no way that Mr. Ortiz can avoid prison; he  
25     has nothing to give, he has given to nobody, he's helped

1 nobody, couldn't even pay his fine, didn't have enough money.  
2 Twenty-four years old. And when he gets out, I wonder what  
3 he'll do. In prison he got a GED. He impressed me because he  
4 was studying after his GED, continued to study, continued to  
5 work. He stopped selling drugs. He came in here after being  
6 shot at a bar, somebody shot him six times causing him to lose  
7 several of his organs, and yet he went to prison.

8 So it's in that context I look at this crime. I'm going  
9 to take into account all the things I must take into account in  
10 sentencing Dr. Schussel, the good he has done, the person that  
11 he is in determining this sentence.

12 Mr. DiMento did mention some things I remembered  
13 from the trial about the good Dr. Schussel has done.  
14 Mr. DiMento did remind me that Diane Reed testified that  
15 Dr. Schussel paid for the education of at least one of her  
16 children, maybe more, and I remember that. And I see from  
17 these letters and from the way that the defendants have  
18 prepared their papers with me emphasizing all the good that  
19 Dr. Schussel has done and that he can do. And I ask myself  
20 about Dr. Schussel because it's not a question I have to ask  
21 about Gabriel Ortiz because I know why he was in here. I know  
22 what path brought him to me.

23 Dr. Schussel, I can't fathom the path that brought  
24 him to me, a man who has made much of himself, extraordinary  
25 education, extraordinary advantages. I know it started out

1 badly, and I admire you, Dr. Schussel, for overcoming the  
2 terrible circumstances of your early life.

3 Ms. Ortiz says it's greed. I don't think it's that  
4 simple, because I don't think a man is characterized by greed  
5 who commits this offense at the same time he's giving away  
6 money, he's educating people, he's raising money for others,  
7 he's giving \$2 million to M.I.T., he's helping people along.  
8 That's not the man full of greed.

9 I don't know what it is. It's Greek. This is a  
10 Greek tragedy, like a Greek tragedy. There's a flaw. I don't  
11 understand what it is. It would be easier for me if I knew  
12 what the flaw was, what it is that brings Dr. Schussel to me.  
13 And while I sat in the back and talked to my staff, I tried to  
14 say to myself, What is it that brings Dr. Schussel to me? Why  
15 is he here? I can't figure it out.

16 What I can say, however, is that the crime has been  
17 committed, it must be punished. I must take it seriously, even  
18 though some would say it's just evasion of taxes, it's just the  
19 government's money, but I can't let the next person who says  
20 it's just the government's money, it is just tax evasion, I  
21 can't let that person do it without thinking of Dr. Schussel.  
22 I have got to send a message that it isn't just the  
23 government's money; it's the money that belongs to all of us.  
24 And you don't get a break merely because you have the means to  
25 do good and that you have the heart to do good and that you do

1 good when you commit a crime.

2 So I'm going to impose a sentence, not the  
3 guideline sentence, it's going to be below the guideline  
4 sentence, but it's going to be a sentence that takes into  
5 account the seriousness of this crime, the need for me to tell  
6 the world that if you commit this crime, I will take it  
7 seriously if you appear here, and that the federal courts  
8 generally will take it seriously.

9 In fashioning the sentence, I take into account all  
10 the good that Dr. Schussel has done, all the things that are  
11 recounted to me in the 59 letters that I have, including the  
12 two from your grandchildren, or two from your grandchildren. I  
13 take into account your age, Dr. Schussel. I think Mr. DiMento  
14 overstates it when he says you are at the end of your life.  
15 There is still more that you can give, but you are not 24, like  
16 Mr. Ortiz was. You have lived a productive life, and there is  
17 more, a greater productive life that you can live, and you have  
18 the means and the will to do productive things in the future.  
19 I take that into account.

20 I take into account your health, the fact you have  
21 a myriad of health problems, gastrointestinal problems,  
22 degenerative arthritis, asthma, sinusitis, and I determine the  
23 sentence with all of those things in mind.

24 So unless someone objects, I am prepared to impose  
25 sentence.

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